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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

KELVIN JONES,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL ACTION NO. C-04-109
	§	
NFN SCHULTZ, ET AL.,	§	
	§	
Defendants	§	


**ORDER DENYING MOTION FOR EXTENSION OF TIME TO FILE RESPONSE TO
DEFENDANT SCHULTZ'S MOTION FOR SUMMARY JUDGMENT**

Defendant Schultz filed his motion for summary judgment on February 22, 2005 (D.E. 34). Plaintiff failed to file a response. On May 4, 2005, a memorandum and recommendation was issued recommending that plaintiff's claim be dismissed for failure to exhaust his administrative remedies (D.E. 49). Almost a week later, on May 12, 2005, plaintiff filed this motion for extension of time to file his response to defendant Schultz's motion (D.E. 50). The motion is denied as untimely. Plaintiff's response was due March 25, 2005. Plaintiff claims in his response that the law library where he is housed is inadequate, but this does not excuse plaintiff from timely filing a motion for an extension of time.

In any event, plaintiff concedes in his motion that he failed to exhaust his administrative remedies. If the District Court denies defendant's motion to dismiss for failure

to exhaust and refers the case to the undersigned for a recommendation on the merits of plaintiff's claim against defendant Schultz, plaintiff's response will be considered.

ORDERED this 8th day of June, 2005.



B. Janice Ellington
United States Magistrate Judge